IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL
WRIT PETITION NO. 149 (S/B) OF 2003

Virendra Singh Kaintura,
Son of Shri Prem Singh Kaintura,
Resident of Village Dourn, P.O. – Narendra Nagar.
District – Tehri Garhwal. .....Petitioner.

Versus

1. State of Uttaranchal, through Secretary, Department of Revenue, Dehradun.
2. District Magistrate, Tehri Garhwal.
3. Additional District Magistrate, Tehri Garhwal.

.....Respondents.

19.12.2005

Hon'ble Rajesh Tandon, J.

Heard Sri P.C. Jhingan, learned counsel for the petitioner and learned standing counsel for the State.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order dated 30.11.2002 (Annexure-2) passed by the District Magistrate, Tehri Garhwal.

Briefly stated, according to the case of the petitioner, he was appointed as Patwari Chaprasi (Class IV employee) by the order passed by District Magistrate Tehri Garhwal on 08.04.2002 on the hoc basis as Class-4 employee.

Petitioner has submitted that on 30.11.2002 the District Magistrate Tehri Garhwal terminated the services of the petitioner without giving any opportunity to show cause.

Petitioner has submitted that he was appointed on the post of Patwari Chaprasi against a substantive vacancy and therefore, he cannot be removed from the office in an arbitrary manner.

The petitioner has further submitted that no appointment against the said vacancy has been made by the District Administration as yet.

The grievance of the petitioner is that the other employees, who have been appointed after the petitioner, are

already continuing to work and an order has been passed by the department itself shows that unless and until, regular selection is taken place the work of one of the employees namely Madan Lal Uniyal may not be disturbed. He has placed reliance on Annexure-10 of the writ petition, where the employee was appointed on different intervals and the District Magistrate has passed the order that until and unless the permanent employees are not employed and therefore, Sri Madan Lal Uniyal was given the temporary appointment till the regular selected candidates are appointed by the Selection Committee.

A counter affidavit has been filed by the State Counsel, in which it has been mentioned that appointment was on temporary basis and therefore, he has rightly been removed.

The petitioner has not controverted the said fact in as much he has filed an order by which he was appointed on adhoc and thereafter, the termination has been passed under the U.P. Government Servant (Termination of Temporary Employees) Rules, 1975.

In reply the petitioner has made only grievance that once the ad hoc appointment has been made, the petitioner could only be removed if a regular appointment is made and not on the basis of U.P. Government Servant (Termination of Temporary Employees) Rules, 1975.

In view of the aforesaid facts, the respondent no. 3 is directed to decide the representation of the petitioner in accordance with the order dated 28.05.2001 (Annexure 3) within a period of six weeks from the filing of the certified copy of the order itself.

Subject to the aforesaid observations, the writ petition is disposed of.

(Rajesh Tandon, J.)

19.12.2005